

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 15.10.2019
CORAM:
THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.No.39442 of 2006

1.P.Bilal (Deceased).
2.B.Mariyam Beevi
3.Maideen Ameen
4.Benazir Begam
5.Umar Ali

...Petitioner

P2 to P5 are substituted as Legal heirs of the deceased P1,
as per order dated 08.06.2018 in W.M.P.No.16287 of 2018
in W.P.No.39442 of 2006

vs.

The Chairman and Managing Director
M/s.Tamil Nadu Minerals Ltd.,
No.31, Kamarajar Salai,
TWAD House, Chempauk,
Chennai 600 005.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Certiorarified
Mandamus, to call for the records relating to the award dated
21.06.2006 made in I.D.No.608 of 1999 on the file of the I
Additional Labour Court, Chennai and quash the said award dated
21.06.2006 and direct the respondent Management to reinstate the
petitioner with continuity of service and backwages and other
attendant benefits.

For Petitioner : Mr.W.M.Abdul Majee

For Respondents : Mr.N.Ramiah

O R D E R

The award dated 21.06.2006 made in I.D.No.608 of 1999 is
sought to be quashed in the present writ petition.

2. The original writ petitioner, Mr.P.Bilal was the
employee, who died during the pendency of the writ petition, and
the legal heirs are impleaded. The original writ petitioner
joined the services of the respondent as Lorry Cleaner on

28.05.1982. Subsequently, he was promoted as Driver in the time scale of pay. On account of certain allegations, a charge memo was issued on 07.12.1993 stating that the deceased employee had quarreled with a private person near the office. Again another memo was issued on 03.02.1994 with an allegation that he refused to receive the circular as well as refused to perform his duty. While so, a charge memo dated 03.07.1994 was issued with an allegation that the deceased employee refused to take the vehicle and thereby disobeyed the order of his superior. The deceased employee submitted his explanation denying the charges and domestic enquiry was conducted and based on the findings of the enquiry officer, the deceased employee was terminated from service. The employee raised an industrial dispute and the Labour Court also rejected the industrial dispute in I.D.No.608 of 1999. Challenging the same, the present writ petition is filed.

3. The learned counsel for the writ petitioner states that the Labour Court has not considered the documents and the evidence produced by the deceased employee and even the witnesses have deposed that they have not seen any misconduct committed by the deceased employee. In the absence of any such evidence, the Labour Court has come to a conclusion that the charges are held proved. At the outset, it is stated that the documents and the evidence produced before the Labour Court were not considered in a right perspective, despite the deposition that there was no eye witnesses to establish the alleged misconduct committed by the deceased employee. The learned counsel further states that the allegations are not serious warranting the major penalty of termination from service. It is contended that the Labour Court has erroneously taken past conduct of the deceased employee for the purpose of confirming the punishment imposed by the respondent/Management. For all these reasons, the award of the Labour Court is liable to be scrapped.

4. The learned counsel appearing on behalf of the respondent/Management disputed the contention raised on behalf of the writ petitioner by stating that the allegations against the deceased employee were serious in nature. The domestic enquiry was conducted in a fair and proper manner. The Labour Court also approved the fairness of the enquiry conducted by the Management and accordingly, dismissed the industrial dispute. The past conduct of the deceased employee was considered and that he involved in many other misconduct and earlier punishments were also taken into account for the purpose of arriving at a conclusion that the workmen is not entitled for any relief. Under these circumstances, the writ petition is

devoid of merits.

5. This Court is of the considered opinion that the findings of the Labour Court are relevant in respect of the grounds raised in the present writ petition. This Court cannot go beyond the findings of the fact by the Labour Court and the Labour Court found that the enquiry was conducted in a just and proper manner and there was no infirmity. The copy of the enquiry report was communicated to the deceased employee. The second show cause notice was issued and the procedure for conducting the domestic enquiry was followed by the Management. Thus, there was no infirmity in respect of the procedure followed by the Management for conducting the enquiry. The deceased employee examined himself as W.W.1 before the Labour Court, and admitted during the cross-examination that he participated in the enquiry and cross-examined the witnesses of the Management. In respect of finding of an opportunity in the domestic enquiry, the Labour Court relied on Ex.M.W.1 which reveals that the petitioner was provided with an opportunity to defend his case and he cross-examined the Management witnesses. Thus, the Labour Court also arrived at a conclusion that the deceased employee was given fullest opportunity during the enquiry and allegations made before the Labour Court by the deceased employee in this regard was incorrect. At the outset, the Labour Court came to a conclusion that both oral and documentary evidence placed before the enquiry officer as well as the documents filed before the Labour Court and the charges framed against the deceased employee had been amply proved and there was no infirmity. In respect of past records of the deceased employee Ex.M.20 and M.21, were marked before the Labour Court. Ex.M.20 is the order of the Managing Director stopping of increment for 2 years with cumulative effect as punishment for the charges of attempting to dispose off tarpaulin illegally belonging to TAMIN and for misleading the Enquiry Officer by giving false information. Ex.M.21 dated 16.09.1994 is the order of punishment awarded by the Managing Director imposing stoppage of increments for three months without cumulative effect for the charges of theft of diesel on 03.08.1993. The Labour Court had considered the past records of the deceased employee as well as the punishment imposed by the Management on earlier occasion. On all these grounds, this Court arrived at a conclusion that the workman is not entitled for any relief.

6. This being the facts and circumstances of the case, this Court is of the opinion that there is no perversity or infirmity in respect of the findings of the Labour Court and the Labour Court arrived at a conclusion based on the evidence available and the reasons furnished are also candid. Thus, this Court is

not inclined to interfere with the award of the Labour Court. Therefore, the award of the Labour Court in I.D.No.608 of 1999 dated 21.06.2006 is confirmed.

7. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CJ)

/true copy/

Sub Asst. Registrar

ssb

To

The Chairman and Managing Director
M/s.Tamil Nadu Minerals Ltd.,
No.31, Kamarajar Salai,
TWAD House, Chepauk,
Chennai 600 005.

+1 cc to Mr.W.M.Abdul Majeed Advocate sr86233

W.P.No.39442 of 2006

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